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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 STEPHEN MCCLANE,

8 Plaintiff,

9 v.

10 CITY OF WALLA WALLA, CITY  
11 ATTORNEY TIM DONALDSON,  
12 COUNTY CLERK KATHY MARTIN  
and JUDGE JOHN W. LOHRMANN,

13 Defendants.

NO: 4:17-CV-5067-TOR

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING COMPLAINT

**1915(g)**

14 BEFORE THE COURT is Magistrate Judge Dimke's Report and  
15 Recommendation to dismiss the complaint for failure to state a claim upon which  
16 relief may be granted. ECF No. 12. Plaintiff, a prisoner at the Stafford Creek  
17 Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have  
18 not been served. Plaintiff has filed no objections.

19 By Order filed August 16, 2017, Plaintiff was advised of the deficiencies of  
20 his complaint and directed to amend or voluntarily dismiss within sixty (60) days.

ORDER ADOPTING REPORT AND RECOMMENDATION AND  
DISMISSING COMPLAINT ~ 1

1 ECF No. 11. Specifically, Plaintiff failed to allege facts sufficient to establish  
2 municipal liability against the City of Walla Walla. *City of St. Louis v. Praprotnik*,  
3 485 U.S. 112, 121 (1988); *Monell v. Dept. of Social Services*, 436 U.S. 658, 690  
4 (1978). He also failed to allege facts which would lower the shield of either absolute  
5 prosecutorial immunity, *Imbler v. Pachtman*, 424 U.S. 409, 430-431 (1976);  
6 *Schlegel v. Bebout*, 841 F.2d 937, 943-44 (9th Cir. 1988), or absolute judicial  
7 immunity, *Stump v. Sparkman*, 435 U.S. 349, 356 (1978); *Ashelman v. Pope*, 793  
8 F.2d 1072, 1075 (9th Cir. 1986). In addition, he presented no facts which would  
9 lower the shield of absolute quasi-judicial immunity enjoyed by the County Clerk of  
10 Court. *Mullis v. United States Bankr. Court*, 828 F.2d 1385, 1390 (9th Cir. 1987).

11 Although cautioned that failure to amend to state a claim upon which relief  
12 may be granted would result in the dismissal of the complaint and a “strike” under  
13 28 U.S.C. § 1915(g), Plaintiff did not amend and has filed nothing further in this  
14 action.

15 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who  
16 brings three or more civil actions or appeals which are dismissed as frivolous or for  
17 failure to state a claim will be precluded from bringing any other civil action or  
18 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious  
19 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**  
20 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**

1 count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may  
2 adversely affect his ability to file future claims.

3 **Accordingly, IT IS HEREBY ORDERED:**

- 4 1. The Report and Recommendation, ECF No. 12, is **ADOPTED in its entirety.**
- 5 2. The complaint, ECF No. 6, is **DISMISSED with prejudice** for failure to state  
6 a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and  
7 1915A(b)(1).
- 8 3. Plaintiff's *in forma pauperis* status is revoked.
- 9 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this  
10 Order would not be taken in good faith.

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
12 enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE**  
13 the file. The Clerk of Court is further directed to forward a copy of this Order to the  
14 Office of the Attorney General of Washington, Corrections Division.

15 **DATED** January 18, 2018.



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*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge